

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of )

Petition of U S West Communications, Inc. )

for Forbearance from Regulation as a )

Dominant Carrier in the Phoenix, Arizona MSA )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 98-157

MCI WORLDCOM REPLY COMMENTS

MCI WorldCom, Inc. (MCI WorldCom) hereby submits its reply to comments filed on U S West's petition for forbearance in the above-captioned docket.

U S West's access customers agree that the Commission's tariffing, price cap, and rate averaging requirements (1) are necessary to ensure that U S West is charging just, reasonable, and not unreasonably discriminatory rates in the Phoenix MSA; (2) are necessary to protect consumers from paying rates that are not just and reasonable; and (3) are consistent with the public interest. U S West's petition fails to satisfy the Section 10(a) criteria for forbearance because U S West continues to possess market power in the provision of high-capacity services in Phoenix.

U S West's access customers emphasize that competitors' networks simply do not have the scale or scope to constrain U S West's pricing. U S West's competitors currently serve only a limited number of routes in the Phoenix area,<sup>1</sup> and, contrary to U S

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<sup>1</sup>Qwest Comments at 3 ("U S West itself implicitly acknowledges that large parts of the MSA cannot be served by anyone but U S West, by conceding that its competitors

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West's claims in its petition, cannot easily expand their networks to serve additional routes. AT&T refutes U S West's claim that CAPs can easily build out from their existing networks to serve additional locations, noting that "the establishment of connections to customer premises is a time consuming, expensive, and difficult proposition. . . ." <sup>2</sup>

U S West's access customers also agree that U S West's petition overstates access customers' ability to switch suppliers of high-capacity services, even on the limited number of routes where a competitive alternative is available. Sprint's comments discuss in detail the practical barriers to switching suppliers, concluding that "it is complicated and expensive to shift from an incumbent LEC's high capacity circuits onto those of an alternate provider." <sup>3</sup> AT&T points out that there are significant financial barriers as well: U S West's term plan termination liabilities are among the highest in the industry, effectively locking in a significant portion of the market. <sup>4</sup> As MCI WorldCom discussed in its comments, the limited demand elasticity means that new entrants can compete effectively for only "growth" traffic. This severely constrains new entrants'

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cannot provide ubiquitous high capacity services, and that many customers and potential customers remain outside the reach of any competitive service provider.")

<sup>2</sup>AT&T Opposition at 9-10.

<sup>3</sup>Sprint Opposition at 10.

<sup>4</sup>AT&T Opposition at 13.

ability to achieve economies of scale and cuts off revenue streams that would justify network expansion.<sup>5</sup>

Given the limited competitive supply of high-capacity circuits and customers' limited ability to switch suppliers even when there are alternatives, it is not surprising that market share measures show U S West's continued dominance. AT&T -- the largest customer of access services in the Phoenix MSA -- notes that it purchases 80 percent of its high-capacity services in Phoenix from U S West, including 90 percent of DS1s and 100 percent of multiplexing.<sup>6</sup>

Parties agree that the Commission should give little credence to the market share figures reported by U S West in its petition. First, Sprint correctly points out that U S West's consultant has provided little or no information describing how the market share figures were derived.<sup>7</sup> Second, AT&T and Sprint agree with MCI WorldCom that the use of DS1-equivalent measures can obscure the true state of competition in the market.<sup>8</sup> Finally, parties agree that the "retail" market share figure that U S West emphasizes in its petition is meaningless.<sup>9</sup>

The record in this proceeding demonstrates conclusively that U S West continues to enjoy market power in the provision of high-capacity services in the Phoenix MSA.

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<sup>5</sup>MCI WorldCom Opposition at 10.

<sup>6</sup>AT&T Opposition at 7-8.

<sup>7</sup>Sprint Opposition at 7.

<sup>8</sup>Sprint Opposition at 7; AT&T Opposition at 7.

<sup>9</sup>See, e.g., Sprint Opposition at 8-9.

Because customers do not have alternative sources of supply for high capacity circuits, U S West continues to have the ability “to raise prices above competitive levels and maintain that price for a significant period, reduce the quality of the relevant product or service, reduce innovation or restrict output profitably.”<sup>10</sup> For this reason, the Commission’s price cap, tariffing, and rate averaging rules remain necessary to ensure that U S West’s rates are just, reasonable, and not unreasonably discriminatory. U S West’s petition thus fails to satisfy the Section 10(a)(1) criterion, and should therefore be rejected.

The ILEC comments filed in this proceeding confirm that the Commission should deny U S West’s petition as quickly as possible, in order to forestall a flood of “me too” petitions from other ILECs. GTE, Ameritech, and BellSouth all suggest that they plan to file similar petitions in the near future, based on their assessment that competitive conditions in their service areas are much the same as those described in U S West’s Phoenix petition.<sup>11</sup> By rejecting U S West’s petition, the Commission would

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<sup>10</sup>See In the Matter of COMSAT Corporation, File No. 60-SAT-ISP-97, Order and Notice of Proposed Rulemaking, rel. April 28, 1998, at ¶67 (Comsat Order).

<sup>11</sup>See, e.g., Comments of GTE at 2.

make clear that the competitive conditions described in U S West's petition, which are typical of competitive conditions in other metropolitan areas, fall well short of justifying forbearance from dominant carrier rules.

Respectfully submitted,  
MCI WORLDCOM, INC.

A handwritten signature in black ink, appearing to read "Alan Buzacott". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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October 28, 1998

### STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on October 28, 1998.



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## CERTIFICATE OF SERVICE

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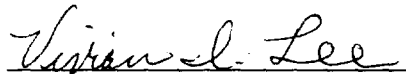
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